


IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

FILED BY 
05 DEC 19 AM 8:50
D.C.
CLERK OF DISTRICT COURT
W.D. OF TENN. JACKSON

TERRY L. CHARLTON,

Plaintiff,

VS.

No. 1:04-1290-T-An

TENNESSEE DEPARTMENT OF
CORRECTIONS, *et. al.*,

Defendant.

ORDER DENYING PLAINTIFF'S MOTION TO CORRECT THE RECORD

Plaintiff Terry L. Charlton moves to correct the record. Plaintiff submits that the court's December 1, 2005 Order Denying Plaintiff's Request for Return of Motion for Summary Judgment confused his motion for summary judgment with his Response in Opposition to Defendant's Second Motion to Dismiss. Plaintiff contends that what he really meant to have "returned" was his Response in Opposition to Defendants' Second Motion to Dismiss. He wanted to have that response "returned" so he could serve a copy of it upon the then-remaining defendants. He now seeks to remedy this alleged mishap.

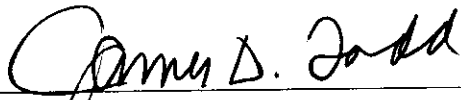
Plaintiff, not the court, is mistaken about the record. The court has already ruled upon two separate motions seeking "returns" of previously filed motions by Plaintiff. Dkt. ## 49, 50. The court denied Plaintiff's motion seeking "return" of his motion for summary judgment because the motion for summary judgment had already been denied. Dkt. # 51.

The court then denied Plaintiff's request for "return" of his Response in Opposition to Defendants' Second Motion to Dismiss, but the court granted Plaintiff an extension of time to serve a copy of that response upon the opposing parties. Dkt. # 52. In other words, Plaintiff has already been granted the very relief he seeks in this motion.


To the extent Plaintiff contends he has not been given an opportunity to respond to Defendants' Second Motion to Dismiss, Plaintiff is incorrect. Plaintiff's Response in Opposition to Defendants' Second Motion to Dismiss has been on the court's file since November 25, 2005, dkt. # 48, and the court considered that response when it dismissed this case on December 6, 2005. Moreover, it is inconceivable how the court could have "returned" that response if, as Plaintiff seems to suggest, the response had never been filed with the court in the first place.

Because there is no error in the record in need of correction, and because Plaintiff has already responded to Defendants' Second Motion to Dismiss, Plaintiff's Motion to Correct the record is DENIED.

IT IS SO ORDERED.



JAMES D. TODD
UNITED STATES DISTRICT JUDGE



DATE



Notice of Distribution

This notice confirms a copy of the document docketed as number 59 in case 1:04-CV-01290 was distributed by fax, mail, or direct printing on December 19, 2005 to the parties listed.

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Honorable James Todd
US DISTRICT COURT